ESGR Ombudsman Services
Basic USERRA Overview

ESGR®
EMPLOYER SUPPORT OF
THE GUARD AND RESERVE

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Uniformed Services Employment & Re-employment Rights Act

Primary purpose: Protect employment rights and benefits of persons serving in the uniformed service (who are eligible)

That is: Restore employees who engage in military service to the same level of seniority, status, pay and benefits that would have accrued, but for the military service.

USERRA

Military Responsibilities:

- Provide prior notice to employer (verbal or written)
- Serve for no more than 5 cumulative years away from the workplace (with exceptions)
- Serve under honorable conditions
- Return to work in accordance with USERRA guidelines

USERRA Back to Work

1. To be eligible for protection under USERRA you must report back to work or apply for reemployment within the following guidelines

   - 1-30 days of service: REPORT to work on the next scheduled work day.
   - 31-180 days of service: APPLY for reinstatement within 14 days following the completion of service.
   - 181+ days of service: APPLY for reinstatement within 90 days following completion of service

2. Note: Safety/Law: Report to work after 8 hours of rest plus travel time from military training site to place of civilian employment.

Employer Responsibilities:

Military obligations cannot be used as a motivating factor not to hire, promote, deny a pay raise or with hold benefits

- Military leave of absence
- Prompt reinstatement of employee
- Restore seniority
- Reinstate employment benefits
- Training or refreshing of skills
- No discrimination or retaliation

USERRA: Who is Covered?

Applies to:

- Past & current employees with uniformed service
- Applicants for employment with uniformed service
- Anyone assisting someone to obtain USERRA rights
- Employers with even 1 part time employee
- Regular military, Reserves, National Guard, National Disaster Medical System

Federal USERRA statute does not apply to:

- Guard members on state active duty (floods, fires, etc)
- Non-recurrent employees, clergy, students, partners, independent contractors

Employer Help In Transition

- Become familiar with the law – know your part and your employee's
- Communicate:
  - Maintain open communication with your employee regarding his/her expectations for military obligations
  - Keep in touch with employee while gone
  - Check in with the employee's unit with any questions or concerns about timing/frequency or duration of service.
  - Know the employee's unit command POC and telephone numbers
- Appreciate:
  - Show appreciation for what they do for you, even if a behavior is required by law
  - If possible, reach out to the service members or their families during absences
  - Be flexible on things that don't matter when returning
- If you have questions about USERRA, call ESGR 800-336-4590, option 1 or go to ESGR.com

Service Members Should Build a Good Relationship with Employer

- Provide employer your deployment schedule far in advance of departure
- Communicate:
  - Maintain open communication with your supervisor and HR personnel on obligations
  - Keep in touch with the employer letting the know when you are returning
  - Provide your employer your unit commanders information for contact and emergency purposes
- Appreciate:
  - Show appreciation for what they do for you, even if a behavior is required by law
  - If possible, reach out to them invite them to see what you do if possible(Boss Lifts)
  - Be flexible on things that don't matter
- Remember you want the company to hire other service members if the experience with service members is beneficial to both

- If you have questions about USERRA, call ESGR 800-336-4590, option 1 or go to ESGR.com

What ESGR USERRA Ombudsmen Do and Don't Do

- Do Contacts employer based on a USERRA claim, case, conflict or information request
- Do Not advocate for the service member in USERRA matters
- Do Provides informal mediation attempting to resolve USERRA conflicts or claims
- Do not "represent" the service member in conflicts, claims or cases
- Do Educates both service members and employers about USERRA
- Do resolve cases/claims in less than 9 days.
- Do Act as neutrals to facilitate resolutions of claims/cases.
- Do Resolve 80 percent of claims successfully
- Do Not send Court Cases to employers attempting to influence complaint or case outcomes
- Do Not enforce USERRA ; DOJ is the enforcing agency.
- Do Open USERRA cases/claims for service members not employers
- Do Manage USERRA claims via web submission 24/7 with next business day response
- Do Inform service members of their options, when unable to resolve a claim/case: to fill out a DOL/VETS claim, or hire a private attorney
- If you have questions about USERRA, call ESGR 1- 800-336-4590, option 1 or go to ESGR.com

Frequently Asked Questions

Does USERRA protect service member if service was voluntary?

- Yes, USERRA protects voluntary and involuntary service

Is service member required to provide written orders for active duty?

- No, advanced notice can be verbal or written in no particular format

Does the service member have to find a replacement for their absence?

- No, the service member does not need to find a replacement or rearrange his/her schedule to accommodate his/her military leave

Does a service member have to use vacation for military service?

- No, but the service member can choose to do so

How much time does an employer have to re-employ me upon my return?

- Prompt re-employment is usually 14 days (with exceptions)

“We All Serve”